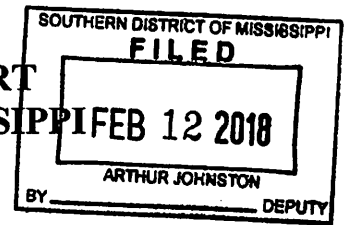


**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**



DOUGLAS HANDSHOE

v. CIVIL ACTION NO. 1:15cv382-HSO-JCG

VAUGHN PERRET, CHARLES LEARY &
DANIEL ABEL, D/B/A/ TROUT POINT
LODGE LTD OF NOVA SCOTIA & IN
THEIR INDIVIIDUAL CAPACITIES
PROGRESS MEDIA GROUP LIMITED,
MARILYN SMULDERS, & ASHOKA

**MOTION TO COMPEL APPEARANCE, TESTIMONY AND
PRODCUTION OF DOCUMENTS OF DEFENDANT /
COUNTERCLAIMANT CHARLES LEARY**

Plaintiff Douglas Handshoe respectfully move under Federal Rules of Civil
Procedure 30 and 37, for an order requiring that Defendant Counterclaimant
Charles Leary to appear and give testimony at a deposition.

As discussed is more fully in the accompanying Memorandum of Law in
support thereof, Plaintiff will show that on December 22, 2017 he emailed Mr.
Leary in an attempt to confer with him to set a mutually agreeable date to conduct
depositions giving Mr. Leary until December 27, 2017 to respond. Leary failed to
reply by December 27, 2017. Instead, waiting until January 12, 2018 to reply
Leary claimed Plaintiff was being unreasonable and disagreed that a deposition
was “necessary under FRCP 26(b)(1)”. On the same date Plaintiff replied to Leary,

advising him that since he failed to timely respond to the email of December 22, 2017, that his deposition was set for February 6, 2018 at the Stone County Courthouse. In his reply to Plaintiff's email response, Leary again claimed that he could not agree a deposition was necessary and that he would file a Motion to Quash. Plaintiff again replied advising Leary that taking his deposition was absolutely necessary to the further this matter towards a resolution. This email chain is attached as Exhibit 1 to this Motion.

On January 4, 2018, after Mr. Leary failed to respond to Plaintiff's email of December 22, 2017, Plaintiff filed with the Court a Notice of Deposition with request for Production of Documents (ECF No. 206) which set February 6, 2018 as the date he would take Mr. Leary's deposition as well as inspect and copy the documents requested in accordance with Federal Civil Procedure Rules. Mr. Leary's copy of this Court filing was mailed on January 4, 2018 via international registered mail, signature receipt, tracking number RA172893478US to his address then on file with the Court at 140 Trout Point Road, E. Kemptville, NS Canada BA5 5X9. On January 18, 2018 delivery was attempted by the Canadian postal authorities. Mr. Leary finally retrieved this mail on February 2, 2018 per United States postal tracking, which is attached as Exhibit 2 to this Motion.

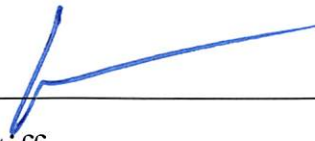
On February 6, 2018 Mr. Leary failed to appear for his deposition despite being properly served the Notice of Deposition and Request for Production of

Documents per Rule 5(b)(2)(C) on January 4, 2018 via international registered mail. Mr. Leary was also advised of the deposition date on January 12, 2018 via email to which he subsequently replied, thus he cannot claim ignorance of the scheduled proceedings, as is his history, habit and custom.

On February 8, 2018 Plaintiff again attempted to confer with Mr. Leary via email to set a date for his deposition and production of documents. Mr. Leary failed to timely respond. This email communication is attached as Exhibit 3 to this Motion.

Plaintiff respectfully moves this Court to compel Mr. Leary's testimony and production of documents at the Stone County Courthouse's first floor conference room on a date set by the Court and for sanctions in the form of assessment of Plaintiff's costs associated with the failed deposition that Mr. Leary purposely choose to not attend.

Respectfully submitted this 12th day of February,
2018,



Plaintiff
Douglas Handshoe
Post Office Box 788
110 Hall Street
Wiggins, MS 39577
(601) 928-5380
earning04@gmail.com

GOOD FAITH CERTIFICATE

I certify that I have conferred and attempted to confer in good faith to resolve the issues in question and that it is necessary to file the Motion to Compel Appearance and Testimony of Defendant/Counterclaimant Charles Leary.

I further certify that I anticipate this Motion will be opposed by Mr. Leary. Further, I agree that replies and rebuttals to the motion will be submitted to the magistrate judge in accordance with the time limitations stated in L.U.Civ.P. 7(b)(4).

Respectfully submitted this 12th day of February, 2018,



Douglas Handshoe
Post Office Box 788
110 Hall Street
Wiggins, MS 39577
(601) 928-5380
earning04@gmail.com

CERTIFICATE OF SERVICE

I, Douglas Handshoe, hereby certify that on February 12, 2018 the foregoing was sent for electronically filing by me via the Clerk of the Court using the ECF system which sent notification to all counsel of record upon filing by the Clerk.

I, Douglas Handshoe, hereby certify that on February 12, 2018, I mailed the foregoing to Charles Leary at 308 5th Ave E, Vancouver, BC V5T 1H4 Canada.

Respectfully submitted this 12th day of February, 2018,



Douglas Handshoe
Post Office Box 788
110 Hall Street
Wiggins, MS 39577
(601) 928-5380
earning04@gmail.com